

Meeting of 2009-10-27 Regular Meeting

MINUTES

LAWTON CITY COUNCIL REGULAR MEETING
OCTOBER 27, 2009 6:00 P.M.
WAYNE GILLEY CITY HALL COUNCIL CHAMBER

Mayor John P. Purcell, Jr. Also Present:
Presiding Larry Mitchell, City Manager
 Frank Jensen, City Attorney
 Traci Hushbeck, City Clerk
COL Ray Lacey, Fort Sill Liaison

Mayor Purcell called the meeting to order at 6:01 p.m. Notice of meeting and agenda were posted on the City Hall notice board as required by law. Invocation was given by Pastor Bob Weger, Bible Baptist Church, followed by the Pledge of Allegiance.

ROLL CALL

PRESENT: Bill Shoemate, Ward One
James Hanna, Ward Two
Janice Drewry, Ward Three
Jay Burk, Ward Four
Robert Shanklin, Ward Five
Richard Zarle, Ward Six
Stanley Haywood, Ward Seven
 Doug Wells, Ward Eight

ABSENT: None.

Mayor Purcell recognized Senator Randy Bass who was in attendance.

PRESENTATION OF PROCLAMATION FOR PANCREATIC CANCER AWARENESS MONTH.

Mayor Purcell presented a proclamation to Jay Stern, Pancreatic Cancer Action Network, proclaiming November 2009 as Pancreatic Cancer Awareness month.

Billie Whipp, Arts and Humanities Division, distributed a report on the 2009 International Festival.

AUDIENCE PARTICIPATION: None.

CONSIDER APPROVAL OF MINUTES OF LAWTON CITY COUNCIL REGULAR MEETING OF SEPTEMBER 21, 2009.

MOVED by Drewry, SECOND by Hanna, to approve the minutes of September 21, 2009. AYE: Hanna, Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate. NAY: None. MOTION CARRIED.

CONSENT AGENDA: The following items are considered to be routine by the City Council and will be enacted with one motion. Should discussion be desired on an item, that item will be removed from the Consent Agenda prior to action and considered separately.

Mayor Purcell stated they need to strike #6 and pull #2. Wells requested items #9 and #11 be considered separately.

MOVED by Drewry, SECOND by Shoemate, to approve the Consent Agenda with the exception of items #2, #9 and #11. AYE: Drewry, Burk, Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna. NAY: None. MOTION CARRIED.

1. Consider the following damage claims recommended for approval and consider passage of the resolution authorizing the City Attorney to file a friendly suit for the claims which is over \$400.00: Joella and Steven Wentz in the amount of \$1,446.28 (**Res. 09-103**), William Swagger in the amount of \$33.50 and Andrew Fanning in the amount of \$1,000.00 (**Res. 09-104**). Exhibits: Legal Opinion/Recommendation, Resolution No. 09-____ and Resolution No.09-____.

2. Consider the following damage claims recommended for denial: Beth and Michael Sanchez in the amount of \$802.44. Exhibits: Legal Opinion/Recommendation.

Mayor Purcell stated that Mrs. Sanchez is in attendance and would like to speak to the City Council.

Beth Sanchez, 415 NW Columbia, stated she felt her claim was denied because of some of the wording of the phone calls and the police report. She stated that morning she heard a crash and she assumed it was the garbage truck. She stated they looked out the window and saw the street sweeper. She walked outside and saw that the rear window of her vehicle was shattered. She assumed someone vandalized her car so she filed a police report. She realized nothing was missing from inside her car. She saw two big pieces of concrete from the street lying next to her car. She turned in her claim thinking this would be a simple process.

Senator Randy Bass, 2606 NW Lakefront Drive, stated Ms. Sanchez had called his wife for a ride. He stated he helped clean up the glass and he could see two stones that had come out of the road lying right behind her car. He stated the Sanchez s are a great family and he honestly thinks that the street sweeper threw the rocks into her back windshield.

Shanklin questioned why the window would cost so much money.

Kelea Fisher, Assistant City Attorney, stated their office did recommend denial of the claim.

Shanklin stated the City Council has paid a great number of claims due to the fact that no one saw the accident. He questioned if it cost that much money to put in a new rear window.

Fisher stated she only submitted one estimate of \$802.44.

Shanklin questioned if her insurance paid anything on the claim.

Mrs. Sanchez stated her insurance agent told her they would not pay anything on the claim since she had already paid to have it fixed.

Senator Bass stated Mrs. Sanchez assumed the City of Lawton would pay to have it fixed and she was told to take it over to Burk Auto Glass by the dealer who sold her the car.

Burk stated it is very expensive when you have to replace a window that has the heater option.

Shanklin stated he feels they need to pay this claim.

Jensen stated their recommendation for denial is based upon the fact that no one actually knows what broke the window and they doubt that a street sweeper could throw that type of debris at the window at that distance.

MOVED by Shanklin, SECOND by Haywood, to adopt **Res. 09-105** approving the damage claim of Beth and Michael Sanchez in the amount of \$802.44. AYE: Burk, Shanklin, Haywood, Wells, Shoemate, Hanna, Drewry. NAY: Zarle. MOTION CARRIED.

3. Consider adopting a resolution ratifying the action of the City Attorney and the City Manager in directing our third party administrator to make payment on the judgment in the Workers' Compensation case of William Looney in the Workers' Compensation Court, Case No. 2004-15346H. Exhibits: **Resolution No. 2009-106**.

4. Consider a Resolution permitting the use of Elmer Thomas Park 24 hours a day during the period March 16-22, 2010, as requested by the Vietnam Veterans of America. Exhibits: **Resolution No. 09-107** and The Wall That Heals Exhibition Summary.

5. Consider acknowledging receipt of a permit for the construction of a waterline and appurtenances from the Oklahoma Department of Environmental Quality to serve the NW 35th Street Waterline Project, City of Lawton, Comanche County, Oklahoma. Exhibits: Permit to Construct dated September 25, 2009.

6. Consider approving the Oklahoma Department of Transportation (ODOT) Change Order No. 3 for the NW 67th Street (Cache Road to Rogers Lane) Project #2003-7. Exhibits: None. **THIS ITEM WAS STRICKEN.**

7. Consider approving Change Order #1 for the NW 2nd Street Enhancement Project #2005-12 with RCJ Construction, Inc. Exhibits: None.

8. Consider adopting a Resolution authorizing the installation of traffic control measures on: SE Coachman Drive; SW B Avenue; NE Dove Lane, NE Tortoise Drive and NE 9th Street. Exhibits: Traffic Commission Minutes, Traffic

9. Consider granting an extension of time for the performance bond for drainage improvements in Scissortail, Part 1. Exhibits: None.

Wells stated the background stated the maximum term of the performance bond is 180 days with one possible administrative extension of 60 days. The original completion date of the bond was August 23, 2009, and the term was extended to October 22, 2009. He stated now they are recommending it be extended a second time. He is not sure he understands this.

Richard Rogalski, Planning Director, stated the code provides him the ability to extend this administratively for 60 days and that has already been done. The applicant has had a number of delays and in this particular instance the applicant has been working with the stormwater manager with regards to revising a specific drainage connection based on the changes in the FEMA maps. That is the basis of this extension.

Wells stated the code allows for one extension and that has already been approved.

Rogalski stated he could not provide for another extension and that is why it has to be brought to Council. Council can provide this extension.

Jensen stated this is permitted.

MOVED by Wells, SECOND by Zarle, to approve extending of time for the performance bond for drainage improvements in Scissortail, Part 1. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

10. Consider approving the record plat for Arvest Bank Addition. Exhibits: Plat Map.

11. Consider a request by the Lawton Toy Run Committee, a non-profit organization, for the City of Lawton to co-sponsor and waive permit fees for the Lawton Toy Run to be held on November 21, 2009, which would benefit the children of our community during the 2009 holiday season. Exhibits: Council Policy 9-2, Request Letter from Lawton Toy Run Committee, IRS Letter, Proof of Non-Profit Status and Flyer for Lawton Toy Run Event.

Wells stated that on the commentary staff did not make a recommendation so he would like to make that recommendation to approve this permit. He stated if staff is not going to make a recommendation then an item should not be on the consent agenda.

MOVED by Wells, SECOND by Hanna, to approve the co-sponsoring and waiving of permit fees for the Lawton Toy Run. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

Shoemate stated he has four or five bags of brand new stuffed toys he would like to donate.

12. Consider extending the contract (CL09-007) Electro Fusion Polyethylene Fittings for DR17 Pipe from ISCO Industries, LLC of Louisville, KY. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

13. Consider extending the contract (CL09-027) Laboratory Services of Toxic Pollutants from Accurate Environmental Laboratories. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

14. Consider extending the contract (CL09-014) Redi-Mix Concrete from Southwest Ready Mix of Lawton, Ok. Exhibits: Department Recommendation, Price Sheet, Contract Extension Form.

15. Consider approval of payroll for the period of October 5 - 18, 2009.

OLD BUSINESS ITEMS:

16. Consider approving a Contract for Services with Bill Phelps & Associates, LLC, beginning November 1, 2009 through June 30, 2010, for the purpose of providing professional consulting/lobbyist services to the City and authorize the Mayor and City Clerk to execute the Agreement. Exhibits: Contract for Services between Bill Phelps, the City of Lawton, and the Lawton Fort Sill Chamber of Commerce and Letters of Support.

Mitchell stated this was tabled from the last meeting and staff has made some minor corrections that were discussed at that meeting. The Lawton Chamber of Commerce board approved the contract and also had some minor modifications.

Dana Davis, President of the Lawton Fort Sill Chamber of Commerce, stated there was a change in paragraph three changing the date from October 15, 2009 to October 30, 2009.

MOVED by Wells, SECOND by Shanklin, to approve a Contract for Services with Bill Phelps & Associates as amended. AYE: Drewry, Burk, Shanklin, Haywood, Wells, Shoemate, Hanna. NAY: Zarle. MOTION CARRIED.

Hanna stated he has had a request from a constituent that all members speak into their microphones.

NEW BUSINESS ITEMS:

Mayor Purcell requested item 22 be considered next.

22. Consider accepting an agreement between the City of Lawton, Oklahoma, and the Board of County Commissioners of the County of Comanche, Oklahoma Pictometry International, Corp., for the purpose of obtaining orthogonal and oblique digital images of the Earth's surface in Comanche County, captured from airborne platforms using Pictometry's patented and proprietary hardware and software capture systems and authorize the Mayor and City Clerk to execute all documentation as necessary. Exhibits:

Council Rules of Procedure, Proposed Agreement between the City of Lawton and Comanche County, Annual Cost breakdown Proposed Pictometry Agreement, Exhibits A-D available in City Clerk's Office.

Burk stated that he was not in attendance at the last meeting when this issue was addressed and he feels this is something that is needed for City use as well as Comanche County. It will be beneficial to both parties and that we will be paying for this differently. He would like to have a vote on this issue.

Mayor Purcell stated Comanche County has generously agreed to pay for 65% and the City of Lawton's portion will be 35%.

Gail Turner, Comanche County Commissioner, stated if they are able to get any other partners the County's portion would recede back to 50% and any amount over that would be split up equally between the two partnerships and each party will pay less money.

Mitchell stated that Lawton Public Schools is interested in participating in this program once it is up and running.

Commissioner Turner thanked the Council for reconsidering this issue.

Zarle stated he has a copy of a contract with this company that was signed May 30, 2008. He questioned if this was still in effect.

Commissioner Turner stated the contract was never approved by the County Commission so it is not a binding contract. The contract was signed by the County Tax Assessor to show good faith by the County, but it was not valid.

Shanklin questioned how much this was going to cost the City of Lawton in the next six years.

Mitchell stated \$240,000.

Shanklin questioned why the County did not come with this figure the first time.

Commissioner Turner stated that night he said the County would be interested in looking at some different percentages.

Shanklin stated every time the citizens of Lawton buy a gallon of gas, .04 is sent back to us but the citizens of Lawton do not get a dime, it goes to the eastern and western commissioners. They will not share it with us. He does not feel we should have to share anything until that part is overcome.

Mayor Purcell stated that discussion is not appropriate for this item. Councilmember Shanklin can bring that discussion back.

Commissioner Turner stated 80% of the tax dollars the County brings in goes right back to our public schools in the county and Lawton has a lot bigger percentage of the kids than anyone else in the county.

Wells stated his complaint on this issue was the use of 911 cell phone money and the City Attorney has ruled that they could not use that, but we are going to take it out of 911 capital outlay. He still has a problem using 911 funds, he feels they should fund this with some other source. There are 40-50% of the citizens in the county using cell phones and we still do not have phase II implemented. He does not like using 911 fund money for something

that will not get phase II implemented.

MOVED by Burk, SECOND by Drewry, to approve an agreement between the City of Lawton, Oklahoma, and the Board of County Commissioners of the County of Comanche, Oklahoma and Pictometry International, Corp. AYE: Burk, Haywood, Shoemate, Drewry, Purcell. NAY: Shanklin, Zarle, Wells, Hanna. MOTION CARRIED.

17. Hold a public hearing and consider a resolution amending the 2030 Land Use Plan from Residential/High Density to Public and an ordinance changing the zoning from R-3 (Multiple-Family Dwelling District) to P-F (Public Facilities District) zoning classification located at 1403 SW Summit Avenue. Exhibits: Resolution No. 09-____, Ordinance No. 09-____, Site Plan, Location Map, Applications and CPC Minutes.

Rogalski stated this request is for Lots 15 and 16, Block 33, Waldman Addition, which total 100 feet by 140 feet and are located at the northwest corner of SW 14th Street and Summit Avenue. The applicant is Mt. Pleasant Baptist Church. The purpose of the request is to add a 32-foot by 40-foot extension onto the existing church. The proposed addition does not meet the side yard and rear yard requirements of the R-3 district; however, there is a provision in the P-F zoning district which allows the City Council to modify the setback requirements for uses permitted in the P-F district, and churches are permitted uses in the P-F district. The site plan submitted with the application indicates the existing building is 3 feet from the property line adjacent to SW Summit Avenue and 7 feet from the interior lot line. The proposed addition would be 5 feet from the rear property line and 7 feet from the interior side lot line. For churches in the R-3 district the setback requirements are: a front yard setback of 25 feet, a side yard setback on a corner lot of 15 feet, a side yard setback on an interior lot line of 20 feet, and a rear yard setback of 20 feet. The Public Facilities District sets out the front yard setback as 25 feet and side and rear yard setbacks as the same as abutting property, which in this case is R-3. Section 18-5-7-577 in the Public Facilities District provides that the City Council, after receiving a recommendation from the CPC, may modify the requirements for setbacks.

The zoning of the surrounding area is R-3 to the north and west and R-3 and C-5 (General Commercial District) to the south and east. The land use of the surrounding area is single-family residential to the north and west and single-family residential and commercial to the south and east. The 2030 Land Use Plan designates these lots as Residential/High Density. In order to accommodate the P-F zoning district to allow the expansion of the church, the 2030 Land Use Plan would need to be changed to Public.

The site plan would be made part of the ordinance and development would have to be in accordance with the site plan. The City Code states that parking lots for more than 6 parking spaces abutting residential districts must be screened. The screening would be located along the alley, and the alley is used as an egress; therefore, Staff recommends the screening not be required because it would create an unsafe situation.

A revocable permit for the parking spaces located in the SW 14th Street right-of-way was granted by the City Council on February 14, 2006. The expansion of the church would not increase the parking requirement.

Shanklin questioned why they would have to have this debate to begin with. People have met to discuss this and now it is back to the City Council.

Rogalski stated this is a rezoning request to allow the expansion which would violate the zoning requirements of the current zone. The request is to rezone so that the expansion would be in accordance with city code.

PUBLIC HEARING OPENED. No one appeared to speak and the public hearing was closed.

MOVED by Drewry, SECOND by Hanna, to adopt **Resolution 09-109** and **Ordinance 09-33**, waive the reading of the ordinance, read the title only. AYE: Shanklin, Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: None. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-33

An ordinance changing the zoning classification from the existing classification of R-3 (Multiple-Family Dwelling District) to P-F (Public Facilities District) zoning classification on the tract of land which is hereinafter more particularly described in section one (1) hereof; approving the site plan attached as Exhibit A; and authorizing changes to be made upon the official zoning map in accordance with this ordinance.

18. Consider a request for funding assistance for the Lawton-Fort Sill Regional Airport in the amount of \$50,000 (Fifty Thousand Dollars) to complete jet fuel tank installation and repair to existing jet fuel tanks and take proper action as deemed necessary. Exhibits:

Letter; Request for funding, Lawton Ft. Sill Regional Airport, dated Sept. 30, 2009,

Resolution 05-54, Passed by Council May 26, 2009, Minutes from May 26, 2009 Council Meeting approving Resolution 05-54 and Joint Resolution with Lawton Fort Sill Chamber of Commerce.

Barbara McNally, Airport Manager, stated the request is for 1/3 of the cost of two projects. One is to complete the

installation of the new jet fuel tank and the other is for rehabbing the lining inside the two existing tanks. The total cost is approximately \$150,000. They will know the exact amount on October 29th when the bids are in for the second project. The request is for an amount not to exceed \$50,000. The Comanche County Industrial Development Authority (CCIDA) has approved this contingent upon the approval by the City Council. The Lawton Fort Sill Chamber of Commerce board has approved the joint resolution.

Mayor Purcell stated that to spend any money out of the hotel/motel tax economic development fund requires a joint resolution signed by the Chamber of Commerce and the City of Lawton.

Shanklin stated if the Chamber had not approved this item, we would have to strike it from the agenda.

Mayor Purcell stated that was correct.

Jensen stated there will also be a contract to account for the hotel/motel tax funds.

Mayor Purcell stated that the City Council is approving the request for funding assistance.

Zarle questioned if they could use hotel/motel funds to repair streets. He stated they do it in Texas.

Mitchell stated he thinks you probably could if it was in conjunction with a specific project.

Jensen stated having a healthy airport is definitely an economic development fund project.

MOVED by Hanna, SECOND by Shanklin, to adopt **Resolution 09-110** approving a request for funding assistance for the Lawton-Fort Sill Regional Airport in the amount of \$50,000. AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin. NAY: None. MOTION CARRIED.

19. Consider approving an ordinance amending Section 10-1-102, Article 10-1, Chapter 10, Lawton City Code, 2005, by amending the definition of Public Improvement to make the definition consistent with a recent amendment to the same term used in Oklahoma's Public Competitive Bidding Act of 1974, providing for severability, and declaring an emergency. Exhibits: Ordinance 09-__.

Tim Wilson, Assistant City Attorney, stated staff periodically conducts a review of state statutes that are being changed to make sure our code is in compliance. A few weeks ago they started that process and noticed that this is a change made by the state legislature during the last session. This ordinance will make our definition in our city code mirror the state's definition. State law will go into effect on November 1st, so staff is requesting this ordinance be declared an emergency.

Shanklin questioned what this really means.

Wilson stated it really does not change anything with the bidding process. The main change is that they have added a section that refers to state statute which exempts portable or otherwise movable buildings or structures or other structures or property that can be disassembled after installation or removed without permanent damage.

MOVED by Shanklin, SECOND by Shoemate, to adopt **Ordinance 09-34**, waive the reading of the ordinance, read the title only and declaring an emergency. AYE: Haywood, Wells, Shoemate, Hanna, Drewry, Burk, Shanklin, Zarle. NAY: None. MOTION CARRIED.

(Title read by City Attorney) Ordinance 09-34

An ordinance pertaining to finance and taxation amending Section 10-1-102, Article 10-1, Chapter 10, Lawton City Code, 2005, by amending the definition of public improvement to make the definition consistent with a recent amendment to the same term used in the public competitive bidding act of 1974, providing for severability, and declaring an emergency.

20. Consider approving an ordinance adding Section 23-2-216, Article 23-2, Chapter 23, Lawton City Code, 2005, by adopting the state's required language to be displayed on signage for physically disabled reserved parking spaces, providing for severability, codification and declaring an effective date of January 1, 2010. Exhibits: Ordinance No. 09-__ and Examples R7-8 & R7-8a signage.

Wilson stated the state legislature has passed a law that requires municipalities to adopt an ordinance that says that they will use specific signs for physically disabled parking within the city effective January 1, 2010. He stated we do not have to go back and replace the signs that are currently in place that do not comply, but any future signs have to meet this standard.

Mayor Purcell questioned if a sign said Van Accessible does that mean that only vans can park in that particular

place. He questioned if this would allow the police to do something about someone who is not in a van who parks in one of these spots.

Wilson stated his take would be that the preference would obviously be to the van person, but he is not sure that it would prohibit someone who just had a physically disabled sticker from parking there.

Mayor Purcell just questioned if this change would solve that issue.

Wilson stated the signs say Van Accessible so they should yield to a physically disabled van.

Chief Ronnie Smith, Lawton Police Department, stated anyone with a physically disabled sticker can park there, it is just van accessible.

MOVED by Wells, SECOND by Hanna, to adopt **Ordinance 09-35**, waive the reading of the ordinance, read the title only and establish an effective date of January 1, 2010. AYE: Shoemate, Hanna, Drewry, Burk, Shanklin, Haywood. NAY: None. ABSENT: Wells, Zarle. MOTION CARRIED.

(Title read by City Attorney)

Ordinance 09-35

An ordinance pertaining to vehicles and traffic adding Section 23-2-216, Article 23-2, Chapter 23, Lawton City Code, 2005, adopting the state s required language to be displayed on signage for physically disabled reserved parking spaces, providing for severability, codification and declaring an effective date.

21. Consider approving an Ordinance pertaining to Buildings, Construction & Housing amending Sections 6-6-1-601 and 6-6-1-604, Division 6-6-1, Article 6-6, Chapter 6, Lawton City Code, 2005, by establishing residential structural contractors and requiring general liability insurance for such contractors, providing for severability and declaring an emergency. Exhibits: Ordinance No. 09-_____.

Wilson stated this is another state change which requires residential structural contractors to have to obtain general liability insurance. Staff has rewritten the code to create the residential structural contractor provision.

Doug Wellhouse, License and Permit Supervisor, stated the state regulation requires you to maintain the same liability insurance that is already maintained by the trade contractor, mechanical, electrical and plumbing contractor which is \$50,000. We are requiring the same \$50,000 proof when you bring in a permit, if that residential permit is a structural item, we will require that liability insurance which will be made out to the City of Lawton as the certificate holder.

Shanklin questioned if we changed anything from what the state is requiring. He questioned if he had to have \$50,000 liability insurance to do something on his own property.

Wellhouse stated there is an exception for those who work on their own private property. But if you subcontract any portion and that subcontractor actually does structural work, that subcontractor will be responsible for the insurance.

Shanklin questioned if we are adding more staff to go around and check to see if this is being done.

Wellhouse stated they are not increasing any fees or staff. They will just make sure the contractors meet the requirements.

Jensen stated they will have to show their certificate to get their building permit.

Shanklin questioned if he had to show a certificate to get his building permit.

Wellhouse stated only if he is doing something other than on his own property and it is structural.

Shanklin stated if he wants to remodel his property does he have to play this ballgame.

Wellhouse stated no, if you are on your own property.

Burk stated if Joe s Roofing goes out and has to put some deck down, he now has to go get a permit. Right now he does not have to have a permit.

Wellhouse stated he does have to have a permit for roof decking because it is a structural item and now he will have to prove he has liability insurance when he pulls that permit.

Wells questioned if they had to replace one board on his roof, would that be considered structural?

Wellhouse stated one board would be a maintenance issue and they would not require it on that part.

Mayor Purcell stated he has been asked by several homebuilders when the City of Lawton is going to put this into place. They are supporting this issue.

Burk questioned the issue of rental property.

Wellhouse stated this does not specify if it is a rental property, as long as you own the property you are allowed to work on it.

Burk stated he pays it being a HVAC contractor and he feels everyone should have it.

Wellhouse stated there are a lot of other issues coming down the pike that will be a lot worse to deal with than this. He stated Lawton Homebuilders Association is supporting this issue as well as insurance companies.

Wells questioned if Wellhouse had heard of the new state law on additional building fees that will have to be charged.

Wellhouse stated there is one coming up where electrical, plumbing and mechanical will have to pull a work trade permit and it will have a \$5 fee attached that will go to the state.

MOVED by Haywood, SECOND by Drewry, to adopt **Ordinance 09-36**, waive the reading of the ordinance, read the title only and declaring an emergency.

(Title read by City Attorney)

Ordinance 09-36

An ordinance pertaining to buildings, construction & housing amending Sections 6-6-1-601 and 6-6-1-604, Division 6-6-1, Article 6-1, Chapter 6, Lawton City Code, 2005, by establishing residential structural contractors and requiring general liability insurance for such contractors, providing for severability and declaring an emergency.

Shanklin questioned if there were any penalties if someone does not comply.

Wellhouse stated staff verifies this and issues a contractors license but city staff will not be responsible to make sure this contractor keeps this up. He stated that is why the City of Lawton will be the certificate holder, so we will be notified if they cancel the insurance.

VOTE ON THE MOTION: AYE: Zarle, Haywood, Wells, Shoemate, Hanna, Drewry, Burk. NAY: Shanklin. MOTION CARRIED.

23. Receive a report on the City's financial condition for the 1st Quarter of Fiscal Year 2009-2010, and provide direction to staff. Exhibits: None.

Mitchell stated this quarterly report reflects the best quarter the City of Lawton has had in about two years. Both sales tax collections and utility revenue are good. He stated landfill revenue is up \$348,000, we have collected 76% of our budgeted landfill revenues. A big reason for the increase is all of the contractors who were in town this summer doing re-roofings. Sales tax collections are at or above estimates and we are holding the line on expenditures. We are not experiencing the problems that other parts of the state are experiencing. He stated staff was asked by the City Council last month to provide some information on capital outlay and how we are expending those dollars. He stated a report was attached. Once the budget is adopted by the Council, they issue a capital outlay schedule broken down into four quarters so they actually ration those capital outlay expenses over the year. He felt this report would be a good addition to the financials.

Wells stated city sales tax is actually down just fractionally under 25% and total general fund revenue is down a little better than a percent. Enterprise fund is bringing us up. Overall, revenue is good but there are a couple of areas there.

Mitchell stated the sales tax number is offset a little by the use tax. Our use tax collections to date are almost 30% of the budget. Interest earned is way down and police fines are down about 4%.

REPORTS: MAYOR/CITY COUNCIL/CITY MANAGER

Wells reminded the Council and community that there will be a homecoming at 3:00 a.m. for a unit from Illinois. He stated he had an 80 year old woman from his church find three raccoons on her porch at 1302 SW 9th Street. He stated he called animal welfare division and explained how they work with the traps. He stated there is a \$50 fee and he questioned if there is any way to waive that fee for those low income residents.

Mitchell stated that is not a fee, it is a deposit and when you return the trap you are reimbursed the \$50.

Wells stated some residents may not have \$50. He stated this woman is blind in one eye and he does not think she can go out and set the trap. He questioned if we could help her. He questioned if staff is still looking at natural gas conversion kits for cars.

Mitchell stated they have looked at this but the problem with compressed natural gas is the cost of building a fuel station. He stated they have looked at starting to purchase compressed natural gas vehicles.

Wells stated they look at combining efforts with Lawton Public Schools since they will be buying new buses.

Mitchell stated they have met with LPS twice and have even looked at estimates to try and figure out how to finance a fueling station. It is very expensive.

Haywood thanked Councilmember Wells for attending many events to represent the City of Lawton. He reported that Dr. Charles W. Whitlow is now the President of the Oklahoma State Baptist Church Association. He stated lots of hotel/motel funds will be coming to Lawton. He thanked all of the City of Lawton employees for taking care of things.

Burk stated he would like to have an update on the upgrades at the ball fields on 38th Street. He stated there have been some issues with little league sports and he is very disappointed in the way that staff had to handle this because of the rules. He hates to see kids punished because of the actions of an adult. He has requested that the Parks and Recreation Commission call an emergency meeting to look at this issue. He would like to make that meeting. He stated there are members who have not been to meetings in months.

Mayor Purcell stated that if someone misses three meetings in a row, the chairman needs to let him know and that person will be removed from that committee. There is then a vacancy which will be filled.

Burk stated he has had a lot of positive feedback regarding the areas that we are having mowed by the contractors. The city is getting cleaned up. He stated the Lawton Enhancement Trust Authority is completing the project out by the airport and have also added an area to go down a few more blocks. He stated they added ten more trees and they were able to order their first buffalo for the stampede in front of the airport. Now they have about nine buffalo that will be placed in the next few weeks.

Drewry stated she also feels that the city is looking great and she commended LETA for all their hard work.

COL Lacy stated that trick or treating on post will be held October 31st between 6:00 8:00 p.m. He stated they are about to execute a rather large exercise on Fort Sill which will be a combined exercise with Singapore air and ground forces. There will be a few hundred Singapore airmen and soldiers at the joint training. The actual exercise will run from November 2 18. He stated the Veteran s Day ceremony will be held November 11th at 9:00 a.m.

Mayor Purcell stated today a dedication ceremony was held in east Lawton for 264 new apartments. They should be done in June or July of next summer. He stated that the CEO told him that Lawton was the easiest place they have ever worked and it was a pleasure to work with the staff from the City of Lawton.

Mitchell thanked Comanche Nation for removing an old smoke shop on Fort Sill Boulevard. He announced there will be an OML regional dinner in Frederick on Thursday, October 29th.

The Mayor and Council convened in executive session at 7:45 p.m. and reconvened in regular, open session at 8:43 p.m. Roll call reflected all members present.

BUSINESS ITEMS: EXECUTIVE SESSION ITEMS

24. Pursuant to Section 307B.4, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the pending damage claim of Jason Wells and if necessary, take appropriate action in open session. Exhibits: None.

Jensen read the title of item #24. No action is necessary.

25. Pursuant to Section 307B.1, Title 25, Oklahoma Statutes, consider convening in executive session to discuss the appointment of a Municipal Judge and in open session, consider approving a proposed employment agreement and authorize the Mayor and City Clerk to execute the agreement. Exhibits: Proposed Agreement to be distributed in executive session.

Mayor Purcell read the title of item #25.

MOVED by Burk, SECOND by Hanna, to approve a contract with Nathan M. Johnson to be the new Municipal Judge effective November 1, 2009 at an annual salary of \$80,000. AYE: Drewry, Burk, Shanklin, Haywood. NAY: Wells. ABSTAIN: Shoemate, Hanna, Zarle. MOTION CARRIED.

There being no further business to consider, the meeting adjourned at 8:46 p.m. upon motion, second and roll call vote.

/s/ John P. Purcell, Jr.

JOHN P. PURCELL, JR., MAYOR

ATTEST:

/s/ Traci Hushbeck

TRACI HUSHBECK, CITY CLERK